

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

CURTIS STEWART,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:18 CV 229 ACL
	)	
ANN PRECYTHE, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

Plaintiff Curtis Stewart, currently an inmate at the Eastern Reception, Diagnostic and Correctional Center (“ERDC”), brought this action under 42 U.S.C. § 1983, alleging the violation of his constitutional rights during his incarceration at the Southeast Correctional Center in Charleston, Missouri (“SECC”). This matter is before the Court upon Defendant Ann Precythe’s Motion to Stay Pending Appeal. (Doc. 129.)

On October 6, 2022, the Court denied Defendant Precythe’s Motion for Judgment on the Pleadings. (Doc. 122.) Defendant’s Motion included an argument that Precythe was entitled to qualified immunity. On October 31, 2022, Defendant Precythe filed a Notice of Appeal, in which she states she is appealing the Court’s interlocutory order denying her qualified immunity to the United States Court of Appeals for the Eighth Circuit. (Doc. 128.) She requests a stay of proceedings in this Court pending the outcome of her appeal. (Doc. 129.)

Neither Plaintiff nor any of the other Defendants in this action have objected to Precythe’s Motion.

Generally, the filing of a Notice of Appeal confers jurisdiction in the appellate court over all matters appealed. It also divests the district court of jurisdiction over any aspects of the case

relating to the appeal. *See Johnson v. Hay*, 931 F.2d 456, 459 (8th Cir. 1991). Many district courts, faced with a similar appeal and motion to stay after having denied immunity, determine that a stay of all proceedings is required pending the outcome of appeal. *See Jones v. Clinton*, 879 F. Supp. 86, 87 (E.D. Ark. 1995) (stating that “[a]n appeal from a denial of official immunity requires a stay of all proceedings pending resolution of the appeal.”); *see also Dickerson v. McClellan*, 1994 WL 577519, at \*1 (6th Cir. 1994) (stating that “[b]ecause an order denying qualified immunity is immediately appealable, it follows that in most cases a stay of the trial proceedings may be necessary to preserve the issue.”)

The Court finds that a stay of all proceeding in this action pending resolution of Defendant Precythe’s appeal is appropriate.

Accordingly,

**IT IS HEREBY ORDERED** that Defendant Precythe’s Motion to Stay Pending Appeal (Doc. 129) is **granted**.

**IT IS FURTHER ORDERED** that this action is **stayed** pending the Eighth Circuit Court of Appeal’s resolution of Defendant Precythe’s appeal.

/s/ Abbie Crites-Leoni

ABBIE CRITES-LEONI

UNITED STATES MAGISTRATE JUDGE

Dated this 8<sup>th</sup> day of November, 2022.